

HUMAN SERVICES BOARD

In re) Fair Hearing No. M-10/08-485
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 Appeal of)

The petitioner appeals a decision of the Department for Children and Families, Child Development Division denying a variance regarding her eligibility for child care subsidy benefits. The issue is whether the Department abused its discretion in not granting the petitioner an exception to its usual policy of determining subsidies based solely on family income and the eligibility status of children for federal adoption assistance. The pertinent facts are not in dispute.

1. In May 2008 the petitioner adopted two children for whom she had previously been providing foster care. In August, following a family move, she applied to the Department for a child care subsidy in order to place the children in a new day care while she was working. She noted that due to a recent reduction in the number of hours she could work, she no longer qualified for health insurance, and

that the cost of maintaining that insurance herself had placed a significant strain on her family's budget.

2. Due to the children's eligibility for federally subsidized adoption assistance the Department found the petitioner eligible for a child care subsidy for each child at 100 percent of its fee scale without looking further into her family's income. In a decision dated November 5, 2008 the Department denied the petitioner's request for a "variance" to pay more than this amount toward the children's day care.

3. The problem for the petitioner (and, presumably, many other families) is that the actual prevailing rate for child care in her area significantly exceeds 100 percent of the Department's current fee scale. The petitioner feels she is unable to pay her child care provider the difference between the amount charged by the provider and the subsidy she receives from the Department.

ORDER

The decision of the Department is affirmed.

REASONS

The regulations adopted by the Child Care Services Division base eligibility for and amounts of child care

subsidies on gross family income. CCS Regulation 4034. However, the regulations provide an exception to the income guidelines when the caretaker relative is an adoptive parent and the child is eligible for federal adoption assistance based on the child's special needs. In such cases, those adoptive parents receive a state subsidy at 100 percent of the Department's child care assistance rates *regardless of family income*. As noted above, the petitioner has been found eligible for the maximum 100 percent child care rate on this basis.

Inasmuch as the demand for day care subsidies far exceeds the resources available to the Department, it has determined that it cannot grant the petitioner, or anyone else in her circumstances, a variance from its regulations to pay the portion of her child care costs that exceeds the 100 percent subsidy rate. The Department acknowledges that its day care subsidies are not reflective of the actual costs incurred by working families in obtaining adequate day care, and it has informed the petitioner and the Board that it is seeking funding increases to raise its subsidy rates. Unfortunately, until then the petitioner is limited by law as to the relief she can obtain from the Board. Inasmuch as the Department's decision correctly applies its current

regulations and policies the Board is bound to affirm that
decision. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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